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Hot Issues – Agriculture

Issue: EPA May Have Issues with Michigan Ag Assurance Program – Statewide

Background/Status: The Michigan Agriculture Environmental Assurance Program (MAEAP pronounced MEEP) is a voluntary program that helps Michigan farmers evaluate their operation and make sustainable management decisions. If farmers meet the criteria for waste management, they can receive “verification” by the state. The State of Michigan currently has 1,000 farms that are certified through the MAEAP and an additional 5,000 working toward that certification. MAEAP was the focus of an Environmental Council of the States innovative project from 2002 through 2007. The project involved concentrated animal feeding operations. At the project’s conclusion, Michigan Department of Environmental Quality officials decided MAEAP did NOT provide an equivalent level of environmental protection as the Michigan National Pollutant Discharge Elimination System program.

The first bills signed into law by Michigan Gov. Rick Snyder in early 2011 were Michigan Public Acts No. 1 and No. 2 (PA 1 and 2). They incorporate MAEAP into Michigan’s Natural Resource and Environmental Protection Act. These Public Acts include provisions that appear to be inconsistent with Michigan’s approved NPDES program and federal NPDES program requirements. The PAs say if a Michigan farmer becomes MAEAP-certified, they are exempt from civil fines unless the violation involves a discharge. This provision violates NPDES program rules.

Region 5’s and Michigan DEQ’s water directors have been communicating on the issues, but a resolution is still not in sight. In July 2011, EPA asked MDEQ to provide an Attorney General’s statement that the state laws as amended by PA 1 and 2 meet federal NPDES program requirements. EPA also requested additional information about how PA 1 and 2 affect Michigan’s authority to implement all or parts of the NPDES CAFO program. MDEQ responded by letter in December 2011 but did not provide the Attorney General’s statement. Water Division and ORC are preparing a second letter to request an Attorney General’s statement. The statement is necessary to help EPA decide whether to approve PA 1 and 2. Under NPDES program regulations, changes to state clean-water laws are subject to EPA approval.

Messages:

- EPA encourages voluntary programs that are proactive and improve environmental practices by farmers.
- EPA must ensure a balance between voluntary programs and the requirements of the Clean Water Act and its implementing regulations.
- EPA is reviewing Michigan Public Acts 1 and 2 to determine whether the state continues to have adequate authority to run the NPDES program.

Contact: Julianne Socha, Water, 312-886-4436, socha.julianne@epa.gov

Related Issue: Congresswoman Praises MAEAP and Michigan Farmers – Statewide

Background/Status: In a guest commentary published by the *Detroit Free Press* on March 22, U.S. Rep. Candice Miller (R-10), praised Michigan farmers for being leaders in reducing nutrient runoff from agricultural land. In her column, Rep. Miller highlighted voluntary conservation plans such as Michigan’s Agricultural Environmental Assurance Program, which helps farms adopt better conservation practices that prevent or minimize agricultural pollution. Miller stated:

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“MAEAP balances efficient production with sound environmental practices that protect our air, water and soil. With more than 1,000 Michigan farms that have completed the MAEAP process, ... practices implemented through MAEAP decrease fertilizer runoff, like phosphorous, which can contribute to algae growth in our Great Lakes.”

Miller recently introduced HR 4162, *the Great Lakes Assurance Program Verification Act*, and said she will push for it to be part of the upcoming national farm bill. If enacted, this bill would allow states to be given a priority use of funds from the U.S. Department of Agriculture's Environmental Quality Incentives Program to promote and assist voluntary state-developed agricultural assurance programs throughout the Great Lakes states. It would also create a priority for conservation funds to producers who are working toward environmental assurance certification.

FYI: No EPA message

Contact: From *Detroit Free Press* March 22 guest commentary, John Peterson, OPA, 312-886-9858, peterjohn.john@epa.gov

Issue: Michigan Farmers Concerned about EPA Pesticide Rules – Statewide

Background/Status: Two fruit growers and a grain farmer who are Michigan Farm Bureau members recently met with EPA staff in Washington to discuss several agricultural issues including the phase-out of azinphos-methyl (AZM, trade name Guthion), an insecticide used on fruit. The farmers are also concerned about EPA's re-evaluation of atrazine weed killer on corn and sorghum, National Pollution Discharge Elimination Systems permits, pesticide spray drift, and Web-based labeling of pesticides. AZM, first registered in 1959, will be phased out by the end of 2012, and the fruit growers are concerned there are not adequate replacement products on the market, especially for cherries and apples. The grain farmer noted atrazine has a 50-year record of safe and effective weed-control and is used on more than 65 percent of Michigan's corn crop. The overall goal of the Michigan contingent was to tell EPA that farmers understand regulations are necessary, but they must be reasonable and practical to achieve full compliance.

AZM is being cancelled because of a high degree of risk to agricultural workers as well as significant acute ecological risks. EPA recognizes the loss of AZM is of particular concern to cherry growers because of the lack of suitable replacement pesticides and high quality standards established by cherry processors. Ben LaCross of Leelanau County and Rodney Winkel of Berrien County were the fruit growers who met with EPA staff. They pointed out AZM has been used for 50 years and has proven itself the most efficient and effective way to combat pests with only one annual spraying. LaCross told the Michigan agricultural publication *Farmers Advance* that if a cherry processor finds just one white worm in his batch, the entire load is thrown out. Michigan currently leads the nation in tart cherry production and ranks fourth in sweet cherries. Winkel stated that losing AZM creates new issues for both farmers and EPA. He said farmers would have to go from spraying an orchard one day with AZM to spraying it five days in a row to combat all the different pests with alternative products.

Ryan Findlay, national legislative counsel for the Michigan Farm Bureau, told the newspaper EPA also needs to understand how important the weed killer atrazine is for farmers. In the *Farmers Advance* article he stated: “These actions by the EPA jeopardize the use of pesticides utilized by Michigan farmers and how they are applied.” EPA decided to initiate an atrazine re-evaluation process because of new studies regarding human health effects including cancer and

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noncancerous effects, as well as the documented presence of atrazine in both drinking water sources and other bodies of water. Findlay seemed to dismiss the problem when he told the publication atrazine was facing an unneeded re-examination because of a “frog advocacy group.” Scientists do suspect atrazine may be causing a worldwide decline in the frog population. (*see hot issue below about another suspected atrazine health issue*)

EPA staff also discussed pesticide application, labeling and drift issues with the Michigan farmers. In 2009, the U.S. Sixth Circuit Court of Appeals reversed an EPA rule that said Clean Water Act permits are NOT needed if pesticides are applied consistent with the label. The Sixth Circuit held that CWA permits are required for all biological and chemical pesticide applications that leave a residue in water when such applications are made in, over or near waters of the U.S. EPA is reaching out to states and tribes that do not have NPDES permit authority and operate under the NPDES Pesticide General Permit (PGP). Michigan has NPDES authority and a state PGP. The Michigan Department of Environmental Quality manages the Pesticide General Permit program. EPA has also developed a draft Spray Drift Pesticide Registration Notice that will address spray drift through label language. This document available for public comment in December 2009, and the final document will reflect stakeholder comments. EPA is working with external stakeholders to design a new system for pesticide product labeling. The Agency has formed a Web-Distributed Labeling Workgroup that has members that represent grower interests.

Ken Nye, the Michigan Farm Bureau fruit and horticulture specialist, told the *Farmers Advance* the Michigan contingent was very pleased with EPA's willingness to have a frank discussion.

Messages:

- EPA will continue the dialogue with Michigan fruit growers on the phase-out of AZM and other agricultural issues. AZM is being cancelled because of a high degree of risk to agricultural workers as well as significant acute ecological risks.
- EPA decided to initiate an atrazine re-evaluation because of new studies regarding human health effects of atrazine as well as the documented presence of atrazine in both drinking water sources and other bodies of water.
- EPA is utilizing a Science Advisory Panel on how to proceed with the atrazine re-evaluation, and the panel's meetings are open to the public. The re-evaluation of atrazine will remain a public process that EPA will continue to document on an Office of Pesticide Programs website.

Contact: From *Farmers Advance Online* article and Bruce Wilkinson, LCD, 312-886-6002, willkinson.bruce@epa.gov

Issue: Atrazine Exposure Linked to Gastroschisis Cases – Midwest States

Background/Status: Gastroschisis is a rare congenital malformation of the abdominal wall associated with significant neonatal mortality. The CDC estimates that each year 1 out of every 2,500 babies in the United States are born with gastroschisis. At least one study has suggested exposure to the agricultural chemical atrazine as the cause of this birth defect. Two Madison, Wisconsin, physicians who specialize in high-risk pregnancies believe they are seeing more involving gastroschisis than expected, based on historic estimates in other states, many involving women from rural areas. In the Wisconsin study, rural areas had almost twice as many cases of the birth defect than urban regions.

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Messages:

- EPA recognizes that the science related to environmental exposures and birth defects including gastroschisis is currently lacking.
- EPA continues to fund Children's Environmental Health Research Centers along with the National Institute of Environmental Health Sciences, which are studying maternal environmental exposures and birth defects.

Contact: Maryann Suero, LCD, 312-886-9077, suero.maryann@epa.gov

Issue: DuPont's "Imprelis" – Statewide

Background/Status: Imprelis herbicide was conditionally registered in the fall of 2010. Beginning in June 2011, several states began getting complaints about damage to trees, particularly Norway spruce and white pine, about 4-6 weeks after application. Observations made during state investigations and complaints made to DuPont indicate that the most commonly reported symptoms have been needle browning and curling of new growth of ornamental trees and shrubs. States with the greatest number of complaints/incidents are Michigan, Indiana, Minnesota, Ohio, Wisconsin, Pennsylvania and New York.

DuPont may have violated federal pesticide law. The approved end-use label for Imprelis does not include Norway spruce and white pine as target species. The directions for use and/or warning or caution statements on the Imprelis labeling are also inadequate to protect non-target species, such as conifer trees, resulting in a pesticide product that is misbranded. Last August, EPA issued a Stop Sale, Use or Removal Order to the DuPont for potential violations of the Federal Insecticide, Fungicide, and Rodenticide Act and ordered DuPont to immediately cease the distribution, sale, use or removal of Imprelis Herbicide products under its ownership, control, or custody. Imprelis products under the ownership, control, or custody of DuPont may not be distributed or sold, moved, or removed for disposal from any facility or establishment, for any reason, other than in accordance with the EPA's written approval.

Messages:

- The Michigan Department of Agriculture worked diligently to investigate incidents of Imprelis damage in the state.
- EPA has reason to believe Imprelis herbicide is in violation of federal law based on DuPont's own test data and information gathered during EPA and state investigations, so the Agency issued a stop sale and use order.
- Two areas of particular concern are compost related damage and proper disposal of dead or damaged trees.
- EPA and affected states anticipate facing future regulatory decisions for similar products containing the same active ingredients as Imprelis, and there is interest in gathering environmental data from sites where Imprelis was applied.
- An ongoing concern for this spring is the potential effects of Imprelis remaining in soil and the planting or replanting of trees in Imprelis-treated areas.

Contact: Estrella Calvo, LCD, 312-353-8931, calvo.estrella@epa.gov

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Hot Issues – Lansing Area

Issue: Good News - Renewable Energy Assistance for Trust Properties – Lansing

Background/Status: The Brownfields branch along with EPA consultant Skeo Solutions will be providing technical assistance to the city of Lansing and Lansing Township to evaluate the feasibility of solar and biomass energy production at three former GM auto plant sites. The three properties shuttered in 2007 are now owned by the RACER Trust. Building demolition is largely complete, and RACER is working with Michigan Department of Environmental Quality to develop a remedial investigation and cleanup action plan. In the meantime, both the city of Lansing and Lansing Township are working on reuse ideas, and officials believe renewable energy facilities are a potential catalyst for redevelopment of these properties. EPA staff held a conference call with community stakeholders about the sites March 6, and a visit is scheduled for May.

Messages:

- EPA provides technical assistance to help communities evaluate the potential of renewable energy on contaminated properties.
- The Agency is committed to finding ways to redevelop brownfields sites.

Contacts: Rosita Clarke-Moreno, Superfund, 312-886-7251, clarke.rosita@epa.gov; Thomas Bloom, Superfund, 312-886-1967, bloom.thomas@epa.gov

Issue: EPA Begins Contamination Study at Adams Plating Site – Lansing

Background/Status: In December 2010, fire destroyed the Adams Plating facility in Lansing. The Lansing Township Fire Department put the blaze out, but water runoff was contaminated with chromium, cyanide, copper and nickel. EPA responded and conducted a time-critical removal action from December 2010 to December 2011. EPA abated immediate threats to human health and the environment by removing containers of hazardous materials, excavating contaminated soil, and reducing on-site contamination to prevent direct contact exposure and further releases to the environment. EPA is now ready to begin a remedial investigation/feasibility study to determine if additional cleanup actions are needed. The responsible party for the site is not financially viable, so EPA will use federal funds for the study. The Adam's Plating site is on the National Priorities List, and implementation of the selected Superfund remedy was completed in 1994. Based on the most recent review in June 2010, the remedy is still protecting human health and the environment. However, the RIFS could show that additional actions are necessary.

Messages:

- EPA emergency responders worked on the site for a year removing hazardous chemicals and cleaning up contaminated water runoff from firefighting.
- EPA will begin an investigation this summer to determine if additional cleanup is needed in and around the site.

Contact: Pablo Valentín, R5 SFD, 312-353-2886, valentin.pablo@epa.gov

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Issue: Velsicol Proposed Plan Released to Public – St. Louis/Lansing Area

Background/Status: The proposed plan for the cleanup of the former Velsicol Chemical Corp. plant site 50 miles north of Lansing in St. Louis, Michigan, was available for public review and comment in February. The proposed remedy, estimated to cost \$374 million, includes soil and groundwater treatment along with containing site pollutants. The remedy also includes cleanup of an adjacent residential neighborhood and replacement of the city of St. Louis municipal drinking water supply. Since Velsicol is bankrupt, the remedy will be a fund lead. EPA has already spent more than \$100 million on the cleanup of sediment in the Pine River adjacent to the Velsicol site. The public comment period ends April 7. A majority of the community supports the remedy, particularly if redevelopment is allowed on portions of the site where cleanup has taken place. However, some members of the Pine River Superfund Citizens Task Force (PRSCTF) want a complete excavation, which would be significantly more expensive. The PRSCTF, a recipient of an EPA Technical Assistance Grant, holds monthly meetings to discuss the Velsicol site, and aides from the offices of Senators Levin and Stabenow frequently attend.

Additional investigative work is under way at the site. EPA is planning to survey sediment and floodplain soil in the Pine River downstream of Velsicol. Depending on the results, EPA may propose additional work in the future.

Messages:

- The proposed plan for the cleanup of the former Velsicol Chemical plant site was released to the public in February. The public comment period will end April 7.
- EPA is funding the cleanup because Velsicol is bankrupt. If the project receives funding this year, cleanup in some areas of the residential neighborhood could begin as early as this fall. However, the overall cleanup will take many years due to the size and complexity of the site.
- EPA will continue to work with the community on site issues, including redevelopment.

Contact: Thomas Alcamo, R5 SFD, 312-886-7278, alcamo.thomas@epa.gov

Issue: EPA, Michigan Approve Sludge Energy Project – Lansing Area

Background/Status: Michigan Department of Environmental Quality this month joined EPA in approving Delhi Township's plans to sell sludge from its wastewater plant for use as a biosolid fuel. Delhi Township is near Holt, Michigan, 11 miles south of Lansing. Michigan State University has told township officials it would be willing to buy a ton a day from the township's sewage facility to use in its T. B. Simon power plant. However, a citizens group objecting to the project gathered enough petition signatures to force a May 8 special referendum. Critics say the township is spending too much on the plan when state shared revenue and property taxes are on the decline. If approved, the project would raise sewer rates by \$1.20 a month. EPA approved the township's plan last December. The project started in 2007 with Phase I, the construction of a digestion process at the wastewater treatment plant that produces high quality liquid sludge that can only be disposed of on farmland. Phase II involves a sludge dewatering/solar drying process that would turn the material into fuel and cost about \$5 million to build. The township would get more than half of the Phase II cost paid through state grants.

Message:

- EPA rules strictly regulate the safety of biosolids for use as fertilizer and fuel.

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- Thirty years ago, thousands of American cities dumped their raw sewage directly into our nation's rivers, lakes, and bays. Today, biosolids can be safely recycled for fuel, so EPA applauds the efforts of municipalities such as Delhi Township.

Contact: *Lansing State Journal* article, John Peterson, OPA, 312-886-9858,
peterjohn@epa.gov

Issue: Michigan Childhood Lead Poisoning – Lansing/Grand Rapids and Statewide

Background/Status: Lead poisoning continues to be a problem in Michigan, particularly in major cities such as Grand Rapids and Lansing. Data from the Michigan Department of Community of Health shows that 9,449 (6.3%) of 155,847 children tested in Michigan were found to have blood lead levels of 5 micrograms per deciliter ($\mu\text{g/dl}$), the current target level, or greater. More than 1,200 (0.8%) of the children had blood lead levels of 10 $\mu\text{g/dl}$ or greater, the previous benchmark. However, only 21% of the children less than 6 years old were tested. In Lansing, 192 (5.8%) of 3,373 children tested were found to have blood lead levels of 5 $\mu\text{g/dl}$ or greater, with 23 (0.7%) children having blood lead levels of 10 $\mu\text{g/dl}$ or greater. In Grand Rapids, 672 (14.1%) of 4,959 children tested were found to have blood lead levels of 5 $\mu\text{g/dl}$ or greater. Sixty-four (1.3%) of the children had blood lead levels of 10 $\mu\text{g/dl}$ or greater.

To further address childhood lead poisoning, in 2008 EPA issued the Renovation, Repair and Painting rule, which requires renovation contractors disturbing lead based paint to complete required training and follow mandated practice standards. Last year EPA amended the RRP rule to require states have the authority to assess administrative or civil fines up to \$5,000 per violation per day. The Michigan Department of Community of Health does not currently have such authority. If the state fails to amend its legislation and rules to meet this requirement, the MDCH will not be authorized to run an RRP program, and EPA may have to commence withdrawal of the authorization of its abatement program as well, curtailing the state's ability to protect its citizens.

Data on childhood lead poisoning is crucial to implement of programs designed to eliminate childhood lead poison. Unfortunately, the U.S. Centers for Disease Control and Prevention plans to eliminate funding for the blood lead surveillance program. This will affect states' and cities' ability to track, consolidate, and evaluate reported cases of elevated blood lead levels in children and, in turn, have a negative effect on the implementation and enforcement of federal and state lead abatement programs

In May 2011, EPA conducted 17 Renovation, Repair and Painting work site inspections in the Grand Rapids, Bay City, and Traverse City areas. Several of the companies inspected were not certified firms and did not have trained renovators while doing work on pre-1978 homes (target housing). Several potential violations were identified during the inspections and enforcement cases are being developed.

Messages:

- Michigan does not meet the EPA's new penalty requirements for the RRP rule and risks EPA's withdrawal of its lead abatement program, which would curtail the state's ability to protect its citizens from the preventable disease of lead blood poisoning.
- Support from Michigan-based constituents would help state officials see the need for legislation to develop a lead renovation program.

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- EPA's enforcement action last May in three Michigan cities including Grand Rapids shows a small number of lead paint contractors are not following the safety rules established to protect people from lead poisoning.

Contact: Ludmilla Koralewska, LCD, 312-886-3577, koralewska.ludmilla@epa.gov; Julie Morris, LCD, 312-886-0863, morris.julie@epa.gov

Hot Issues – Grand Rapids Area

Issue: Remedial Design at Spartan Chemical Site – Wyoming/Grand Rapids Area

Background/Status: The Spartan Chemical site is located in Wyoming, five miles southwest of Grand Rapids. Soil and groundwater at the site are contaminated with a variety of volatile organic chemicals from a bulk chemical transfer plant that operated from the 1950s to the early 1990s. EPA selected a final cleanup plan for the site in 2007. Michigan Department of Environmental Quality is the lead agency and expects to complete the remedial design work by this fall. Spartan Chemical is now bankrupt, so design and cleanup are being paid for through federal funds. This March, Region 5 requested funding for the site from EPA's National Prioritization Panel. The panel will make a funding decision later this year.

Message:

- MDEQ expects to complete design work on the cleanup plan by this fall.
- The company is bankrupt so cleanup work at the site will be conducted in phases and is expected to take four to five years to complete, depending on the availability of federal funding.

Contacts: James Hahnenberg, Superfund, 312-353-4213, hahnenberg.james@epa.gov

Issue: Wolverine World Wide – Rockford/Grand Rapids Area

Background/Status: EPA and the Michigan Department of Environmental Quality are evaluating the Wolverine World Wide former tannery site in Rockford because of a petition submitted by local residents. Rockford is 14 miles north of Grand Rapids. The community turned to EPA when Wolverine was unresponsive to its requests for information regarding pollutants leaching into surface waters and disposal of wastes during the demolition of the facility, a 100-year old tannery. The 15-acre site sits along the banks of the Rogue River and Rum Creek. Rockford's City Council has expressed support for Wolverine and concern that EPA's actions may adversely affect future redevelopment. EPA collaborated with Wolverine in sampling the site and surrounding sediment. EPA is planning to issue a 104(e) request letter this spring to obtain information regarding the facility's processes, waste characterization and waste disposal. State Representative MacGregor has requested a briefing from MDEQ on the findings prior to releasing the preliminary assessment report.

Messages:

- EPA has sampled the site and surrounding sediment near the Rogue River and Rum Creek.
- EPA will host a community meeting on April 24.

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Contact: Nuria Muñiz, Superfund, 312-886-4439, muniz.nuria@epa.gov

Hot Issues – Statewide

Issue: Childhood Cancers under Investigation – St. Clair County/S.E. Michigan

Background/Status: A larger-than-normal number of childhood cancers is being investigated by St. Clair County Health Department (SCCHD), the Michigan Department of Community Health and the Centers for Disease Control and Prevention. St. Clair County (pop. 163,000) is 50 miles north of Detroit and considered part of the Detroit metro area. The county seat is Port Huron, Michigan. SCCHD has identified eight cases of a rare childhood cancer that affects the kidneys called Wilms Tumor. These cases were diagnosed during 2007-2011, and the number exceeds what would normally be expected based on national and state averages. SCCHD is also coordinating its investigation with neighboring Lambton County, Ontario. Wilms Tumor is highly responsive to surgery and subsequent treatment.

EPA is not involved in the investigation and has not received any inquiries from Michigan congressionals about the cases. The local, state and federal health agencies are doing epidemiology studies to try to find commonalities among the children. So far, they have not asked for environmental monitoring from Michigan Department of Environmental Quality or EPA.

Messages:

- EPA has not been asked to get involved in the St. Clair County cancer cases.
- Research has not found any strong links between Wilms Tumor and environmental factors, either during a mother's pregnancy or after a child's birth.

Contact: Maryann Suero, LCD, 312-886-9077, suero.maryann@epa.gov

Issue: Enbridge Spill - EPA Hopes to Reopen River Portions this Spring – Marshall

Background/Status: Based on last summer's reassessment of the entire Kalamazoo River system affected by the July 2010 oil spill, Enbridge initiated a more mechanized approach to recovery operations and developed innovative oil recovery techniques. Great progress was made in cleaning up submerged oil between May and October last year. This March, Enbridge completed excavation and restoration of Talmadge Creek. Cleanup of all known impacted overbank areas, including the removal of several affected islands, will be done by the end of March.

EPA formed the Scientific Support Coordination Group (SSCG) to provide advice to the federal On-Scene Coordinator on final cleanup endpoints for submerged oil. The SSCG is comprised of top scientists from EPA, USGS, Environment Canada, MDEQ, academia and private industry. The SSCG has formed subgroups to evaluate several issues. Those issues include the quantity of submerged oil remaining in the system, ecological risks associated with continuing submerged oil and its recovery, fate and transport of submerged oil, temperature effects, and recovery effectiveness. Pending the results of the temperature effects study and other SSCG research, Enbridge will reassess the entire spill area this spring. For remaining submerged oil, EPA will continue ongoing scientific evaluations to define the balance between the benefits and the downside of continuing invasive bottom-agitation tactics versus targeted recovery in specific locations. The official name for this kind of evaluation is "net environmental benefit analysis."

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While EPA staff considers broader strategy for the entire affected area, cleanup work is under way using a tactical approach. By targeting specific deposits of contaminated sediment, responders hope there can be incremental reopening of Talmadge Creek and portions of the Kalamazoo River by using a buoy permit process beginning this April.

In other Enbridge news, the federal report detailing the cause of the Kalamazoo River oil spill will be delayed until fall, more than six months after it was originally scheduled. The National Transportation Safety Board said the delay is due a backlog in investigating a large number of pipeline-related incidents in the past two years. The report and its findings could allow the Pipeline and Hazardous Materials Safety Administration to levy additional fines on Enbridge.

Messages:

- Reopening of Talmadge Creek and portions of the Kalamazoo River will begin this April.
- EPA formed a scientific panel to advise the Agency on how and when final cleanup can be achieved.

Contact: From *Kalamazoo Gazette* article and Mark Durno, Superfund, 440-250-1743, durno.mark@epa.gov

Issue: Cleanup Work Continues at Tittabawassee River, Saginaw River and Bay Site – Midland

Background/Status: EPA and Dow Chemical Co. signed a legal agreement last November requiring Dow to clean up sediment in Segment 1, a three-mile stretch of the Tittabawassee River next to Dow's Midland plant. Unlike other segments of the river, dioxins are not the main pollutant at that location. Work will begin this summer with the installation of recovery wells within three of the six contamination areas in Segment 1. After the removal is complete, any remaining contaminated sediment will be contained in place or removed in limited circumstances. Wells will remain operational until late fall when recovery will conclude for the season.

This spring or early summer, Dow will resume assessments of floodplain properties along the Tittabawassee River to determine eligibility for interim exposure controls. Installation of exposure controls started in July 2011 at 25 properties. Examples of controls include moving gardens out of the floodplain or placing gravel on floodplain trails. These controls will limit contact with floodplain soil that may contain elevated dioxin levels. All eligible properties will be assessed this year. Dow will maintain these controls until comprehensive cleanup options are developed and in place.

At the March 19 meeting of the Saginaw-Tittabawassee Rivers Contamination Community Advisory Group, EPA discussed its plans to streamline the cleanup of the remaining 24 miles of the Tittabawassee River after Segment 1. Instead of individually planning each of the remaining six river segments, EPA will devise a comprehensive cleanup plan with extensive input from local residents and officials. While the planning will take more time up front, EPA staff said it should mean a faster site cleanup. This year the Agency will develop a preliminary list of cleanup options, and will engage stakeholders in 2013. EPA will then use 2014 to propose a formal cleanup option, get public comment and select the final plan. Advisory group members said they liked the idea for a comprehensive plan.

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Messages:

- Cleanup work on the dioxin and other chemical contamination in the Tittabawassee River and floodplain will pick up again this spring.
- The accelerated schedule protects human health and the environment.
- EPA is committed to enhanced community involvement at the site.

Contact: From *MLive.com* article and Mary Logan, Superfund, 312- 886-4699, logan.mary@epa.gov

Related Issue: Dow Won't Offer Midland Deal to River Residents – Midland

Background/Status: Dow Chemical Co. officials say there are no plans to include residents living along the Tittabawassee and Saginaw rivers in a plan to buy or clean up Midland properties contaminated by dioxin. In a settlement with the Michigan Department of Environmental Quality, Dow last month offered to buy 50 Midland properties and offered to test soil for high levels of dioxin at an additional 1,450 properties surrounding those 50. Properties where soil registers above 250 parts per trillion would have the contaminated earth removed and replaced. The settlement does not Saginaw and Midland county homes along the rivers where EPA is supervising cleanup under a separate legal agreement with Dow. Dow spokesperson Mary Draves said because two different environment agencies deal with the region's dioxin contamination, the proposal to buy or clean up properties does not include the riverside homes. Draves also said the riverside properties' contamination is "much more complex," involving sediment in the river. Michelle Hurd-Riddick, a member of the Great Lakes Bay-based environmental group The Lone Tree Council, said she hoped the offer would be extended to riverside properties.

FYI: No EPA message

Contact: From *MLive.com* article, John Peterson, OPA, 312-886-9858, peterjohn@epa.gov

Issue: EPA Agrees with State-PRP Agreement at CKD Site – Bay Harbor

Background/Status: In early 2011, EPA approved two reports from responsible parties CMS Land Co. and CMS Capital LLC (collectively CMS) concerning the Little Traverse Bay Cement Kiln Dust Release site in northern Lake Michigan. The PRP performed the investigation per EPA's 2005 Administrative Order on Consent. Completion of the reports began a negotiation period between the Michigan Department of Environmental Quality and responsible party that produced an agreement for CMS to install and manage the final steps of the cleanup actions under state oversight. EPA approved the state/CMS cleanup agreement March 13. Planned cleanup actions include management of cement kiln dust in-place, targeted removal of clean groundwater to reduce overall leachate production, and collection of hazardous leachate from lakeshore trenches. The leachate would either be treated before discharge under a NPDES permit to Little Traverse Bay, or disposed of in a EPA-permitted deep injection well.

Message:

- EPA is supporting MDEQ as it finalizes an agreement with CMS for a long-term solution to leachate management at the Little Traverse Bay site.
- After the agreement is final, MDEQ will be the lead oversight agency for the site.

Contacts: Leslie Patterson, Superfund, 312-886-4904, patterson.leslie@epa.gov; Christine Liszewski, ORC, 312-886-4670, liszewski.christine@epa.gov

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Issue: Latest S.S. Badger News – Ludington

Background/Status: After allowing S.S. Badger owner Lake Michigan Carferry to apply for an individual permit for coal ash discharge, EPA followed up recently with specific questions about the discharge. In a Feb. 24th letter to LMC, the Water Division director said the information will be used to develop effluent limitations to meet technology and water quality requirements of the Clean Water Act. The letter also reminds LMC that all documents supporting its permit application must be submitted no later than June 29. EPA's letter stated LMC may claim some information requested as confidential, but claims for confidentiality of effluent data will be denied. EPA also noted that LMC must claim confidentiality at the time of submitting the information, or the Agency may make the information public. The Badger case has been widely followed by media in both Wisconsin and Michigan. An editorial in the *Manitowoc (WI) Herald Times Reporter* March 14 urged LMC to be completely transparent in its information submittal to EPA so the public will understand all the issues. Other articles and TV stories have concluded the Ludington, Michigan, economy will be devastated if the Badger stops running. Michigan congressionals are closely following the issue by making inquiries to EPA. Illinois U.S. Sen. Dick Durbin, on the other hand, has emerged as a Badger opponent because he says the ship line has had ample time to convert from coal.

LMC officials say the company will meet EPA's June 29 deadline. The car ferry is nearly 60-years old and is now the last coal-fired steamship operating on the Great Lakes. Burning coal to power the Badger leaves coal ash as a byproduct. EPA estimates the ferry discharged 537 tons of coal ash during the 2011 season. The ferry operates between its home port of Ludington, Michigan, and the Wisconsin port of Manitowoc between 130 and 150 days a year. In 2008, EPA granted the Badger a vessel general permit to continue discharging coal ash until this December. LMC has sought an extension while the company considers changes, which include the possibility of using compressed natural gas for fuel. The company also has considered retaining the coal on board for removal at a port and considered converting to diesel engines. The Great Lakes Maritime Research Institute will study the natural gas option this summer. The institute is a consortium of the University of Wisconsin-Superior and the University of Minnesota Duluth. EPA recently issued a direct final rule that provides a financial incentive to steamships in the Great Lakes that convert to diesel engines. Diesel engines are at least 30 percent more efficient than steam boilers and significantly reduce the air pollution.

On Feb. 6, EPA required LMC to apply for an NPDES individual permit because the company anticipates the Badger's coal ash discharges will continue beyond Dec. 19. In developing a permit, EPA will consider all pollution control technologies for the vessel (including those that would eliminate the discharge) and determine the Best Available Technology for the vessel. In its Feb. 24 letter, EPA requested more information about the ferry, its equipment, the process required for daily operations, and information about the coal burned and Lake Michigan's water. In the letter, the Agency stated: "EPA does not believe that the petition documents submitted on Nov. 2, 2011, contained adequate support for the conclusions about the availability or feasibility of technologies/control techniques to address the coal ash discharges."

Messages

- The S.S. Badger cannot discharge coal ash after Dec. 19 unless it obtains a new NPDES permit.
- On Feb. 6, EPA required the Badger owners to apply for an individual permit for the coal ash discharges. EPA will prepare a draft permit based upon the application submitted.

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Contact: *Ludington (MI) Herald Times, Manitowoc (WI) Herald Times Reporter, Sean Ramach, Water, 312-886-5284, ramach.sean@epa.gov*

Issue: Good News – EPA Part of \$1.3 Billion Federal Climate and Energy Initiative – Statewide

Background/Status: EPA is among several federal agencies that have announced the availability of nearly \$1.3 billion in funding opportunities for state, local and tribal governments and non-profits to use to support climate and energy initiatives, including transportation, energy efficiency, renewable energy, green infrastructure and sustainability planning. EPA will award \$950,000 to 10 to 20 projects for Green Infrastructure Technical Assistance. EPA's Green Infrastructure Program will help the winning local government department, office, agency or non-profit to use green infrastructure to protect water quality. Green infrastructure uses vegetation, soil and natural processes to manage stormwater and decrease temperatures in the urban environment by deflecting solar radiation, providing shade, and removing heat from the air. EPA will provide contract support for technical assistance to help communities with green infrastructure implementation. The value of the assistance available to each of the 10 to 20 projects selected will be approximately \$50,000 to \$100,000. Website:

http://water.epa.gov/infrastructure/greeninfrastructure/gi_support.cfm#CommunityPartnerships

Message:

- A Michigan community, non-profit or tribe can apply for an EPA Green Infrastructure Technical Assistance grant.
- Ten to 20 projects nationwide will receive up to \$100,000 to construct green systems to protect water quality.

Contact: Lara Lasky, Environmental Justice Program Coordinator, 312-353-5614, lasky.lara@epa.gov

Issue: EPA Part of Detroit Corruption Probe – Detroit

Background/Status: The FBI along with other federal agencies including EPA's Criminal Investigation Division declared war on Detroit-area public corruption at a news conference in early March. FBI officials called the corruption in city and county government systemic. At the news conference, Randall Ashe, EPA's special agent in charge said, "public corruption can kill." EPA will specifically be investigating corruption involving asbestos demolition contractors. Ashe said EPA is actively involved in a "number of investigations."

Message:

- EPA is committed to protecting the health and safety of Detroit-area residents and will pursue officials and companies who don't properly remove and dispose of dangerous asbestos.

Contact: From *WZZM-TV Detroit story*, Randall Ashe, CID, 312-886-9874, ashe.randall@epa.gov

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Issue: Bankruptcy Settlement Not Enough to Cover Site Cleanup – Kalamazoo

Background/Status: The Allied Paper/Portage Creek/Kalamazoo River Superfund site includes four disposal areas, five former paper mill properties, and more than 80 miles of the Kalamazoo River and Portage Creek contaminated with PCBs. Cleanup costs for the entire site could reach \$1 billion. A Chapter 11 bankruptcy settlement in 2010 between the United States and Lyondell, the parent company of Millennium Holdings, a potentially responsible party at the site, provided around \$100 million towards site cleanup. Although there are other PRPs, cleanup costs will likely far exceed their available resources, and a large portion of the site cleanup may fall on EPA. EPA expects to select a cleanup plan for the Allied Landfill portion of the site later this year and may need to use funds from the bankruptcy settlement to conduct the cleanup there. A range of potential cleanup options will be included in the feasibility study for the Allied Landfill, ranging from capping and groundwater monitoring for \$38 million to full excavation and off-site disposal for \$238 million.

Message:

- There are enormous costs involved in cleaning up the Kalamazoo River site, and one of the main PRPs has declared bankruptcy.
- Bankruptcy funds may be used for the Allied Landfill portion of the site. A cleanup plan for this portion is expected later this year.
- Various enforcement and funding mechanisms may be necessary to advance a project of this magnitude.

Contacts: James Saric, Superfund, 312-886-0992, saric.james@epa.gov

Related Issue: Portage Creek Cleanup – Kalamazoo

Background/Status: EPA signed an Action Memorandum last summer to conduct time-critical removal work along a 1.8-mile stretch of Portage Creek immediately downstream of the Allied Paper Landfill to the confluence of the Kalamazoo River. The current cleanup work in the creek began last September and involves the removal of hot spots throughout Portage Creek. EPA estimates that 17,000 cubic yards of PCB-contaminated soil and sediment will be excavated, and the project will take two to three field seasons to complete.

Messages:

- EPA's removal action is expected to deal with the PCB contamination in Portage Creek so that no further action will be required in the creek in the future.
- Cleanup work is expected to remove 17,000 cubic yards of contaminated sediment and may take two to three field seasons to complete.
- This cleanup, estimated at \$15.8 million, is being paid for by EPA and existing funds from previous site-related settlements. EPA does not anticipate having to use money from the Millennium Bankruptcy settlement (*see item above*) for this action.

Contacts: James Saric, Superfund, 312-886-0992, saric.james@epa.gov

Issue: Addition of Yard Waste to Michigan Landfills – Statewide

Background/Status: For the past several years, the Michigan Legislature has been considering reversing the ban on yard waste being placed in landfills as a way to generate more methane gas for energy production. Legislative hearings have been held on the issue recently. We understand

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that a few Michigan landfills have promoted the ban reversal. EPA has responded to several questions from Michigan Department of Environmental Quality by repeating the Agency's support for a yard waste ban in landfills.

Messages:

- Reversing Michigan's yard waste landfill ban would be inconsistent with preferred waste management methods that promote composting and create green jobs.
- The process of landfill degradation creates methane that has a higher greenhouse gas potential than the carbon dioxide created by composting.
- Landfill gas capture systems are not 100 percent effective. EPA estimates landfill gas collection systems only capture 60 to 90 percent at various times of operation.

Contact: Chris Newman, LCD, 312-353-8402, newman.christopherm@epa.gov

Hot Issues – Great Lakes

Issue: Asian Carp Update – Statewide

Background/Status: Issue: Last month the U.S. Supreme Court denied on appeal a request for a preliminary injunction against the Corps of Engineers and the Metropolitan Water Reclamation District of Greater Chicago to close the locks and dams in the Chicago Waterway System to block Asian carp from reaching Lake Michigan. The Michigan attorney general is leading the states of Minnesota, Ohio, Pennsylvania and Wisconsin in filing the public nuisance complaint in U.S. District Court. The main case will continue working its way through the courts, but the states won't get the immediate action they sought. The Obama administration will spend about \$50 million this year to shield the Great Lakes from Asian carp, including first-time water sampling to determine whether the invasive species have established a foothold in Lakes Michigan and Erie. An updated federal strategy for preventing an invasion also includes stepped-up trapping and netting in rivers that could provide access to the lakes, as well as initial field tests of chemicals that could poison them or lure carp to where they could be captured. Progress also is expected on producing food pellets that would poison Asian carp without harming other fish. An acoustic water gun that could scare the carp away from the Chicago-area electrical barriers will also be tested. President Obama's proposed FY13 budget also contains \$24.5 million for the Army Corps of Engineers to operate the electric barriers in the Chicago Sanitary and Ship Canal. That is an increase of \$900,000 over last year's budget. The federal government has already budgeted more than \$100 million over the past two years in the fight against bighead and silver carp. A report last month by the Great Lakes Commission and the Great Lakes and St. Lawrence Cities Initiative called for up to \$9 billion to be spent re-separating the Mississippi River and Great Lakes watersheds. Obama administration officials have said the 20-year timetable and the cost of that plan may make it unfeasible although strongly worded editorials in the *Cleveland Plain Dealer* and *Milwaukee Journal Sentinel* advocate going forward with the plan despite the costs.

The Corps is undertaking a long-term study, the Great Lakes Mississippi River Interbasin Study (GLMRIS), and related environmental impact statement to evaluate options to prevent and control further aquatic nuisance species movement between the two basins, including the option of permanent separation of waterway connections. This study will consider technical feasibility, environmental and societal impacts, legal requirements, and costs of the various strategies. EPA will help develop and review these studies, and has provided much of the funding through the Great Lakes Restoration Initiative. Last December the Corps issued a draft report on available

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control strategies. EPA commented that none of the alternatives has been sufficiently evaluated for us to form an opinion on an alternative's acceptability. The Corps will consider the Great Lakes Initiative study in its own inter-basin study.

Specifically related to Michigan, the Corps has not identified a high-risk aquatic connection between the Mississippi River basin and the Great Lakes in conducting its assessment of other pathways for migration outside of the Chicago Area Waterway system. The state has developed a rapid response plan for aquatic invasive species and is currently stockpiling rotenone (a fish poison known to exterminate carp) for a potential future response. The rotenone is being procured utilizing a combination of state and GLRI funds.

EPA has historically been involved in coordinating invasive species issues as a member of the Aquatic Nuisance Species Task force and the Asian Carp Regional Coordinating Committee. The Corps is also undertaking a long-term study, the Great Lakes Mississippi River Interbasin Study, and U.S. EPA will review all related environmental impact statements. In late December, the Corps made its draft report on available control strategies available for 60 days of public review and comment. EPA commented that the evaluation of alternatives was insufficient.

Messages:

- EPA is not a party in the Asian carp lawsuit but watches the court case very closely. The Department of Justice will be filing a response on behalf of the federal government's interests.
- EPA is budgeting for Asian carp prevention funds to go to key agencies under the Framework as one of the top priorities under the GLRI Action Plan.
- All of the actions taken by the Asian Carp Regional Coordinating Committee (ACRCC) lead them to conclude that there is no imminent threat of Asian carp establishing a self-sustaining population in the Great Lakes.
- The federal government has spent \$100 million the last two years on carp prevention, and this year will spend \$50 million with several experimental projects.
- EPA will continue to cooperate with the ACRCC partners on field efforts and studies related to Asian carp.
- All this money and effort is yielding results in shielding the Great Lakes from invasive species.
- None of the prevention or control strategies identified by the Corps has yet been analyzed sufficiently for EPA to have an opinion on an alternative's acceptability.
- EPA will review and comment on the Corps's Environmental Impact Statement when it is prepared.

Contacts: Cameron Davis, EPA, davis.cameron@epa.gov; 312-886-4957; Bill Bolen, EPA GLNPO, 312-353-6316 bolen.bill@epa.gov, Ken Westlake, EPA NEPA, 312-886-2910, westlake.kenneth@epa.gov

Issue: Lakes Ice Down 71% last 40 Years – Great Lakes

Background/Status: National Oceanic and Atmospheric Administration scientists Jia Wang and George Leshkevich caused a stir this month when they summarized Great Lakes research by noting a dramatic 71 percent drop in total ice cover from 1973-2010. Their study includes the five Great Lakes and Lake St. Clair. Among the findings being discussed: The lakes are right now about 3 degrees warmer overall than normal, a condition that could lead to early arrival of harmful algal blooms in the summer and dead zones in the fall. Strong winter winds can lead to

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greater shore erosion when there is no ice cover to keep the waves down. The study builds on previous work, including *The Great Lakes Ice Atlas* put together by now-retired NOAA scientist Ray Assel. The scientists say it is difficult to predict ice cover on the lakes for any given year and that there appears to be both four- and eight-year cycles emerging. They also suggest lake ice mainly responds to the combined Arctic Oscillation and El Niño-Southern Oscillation patterns. Wang also said global climate change and regional climate patterns are competing over the Great Lakes – but that global warming was definitely playing a role in reducing and delaying ice cover. Lake Ontario appears to have the largest ice loss at 88 percent, while Lake Erie and Lake St. Clair have the smallest at 37 percent.

Message:

- EPA is taking steps to both reduce climate change by preventing pollution and to help states and communities adapt to new environmental realities.

Contact: From *Cleveland Plain Dealer* article, John Peterson, OPA, 312-886-9858, peterjohn.john@epa.gov

Issue: EPA's Proposed Vessel General Permit – Great Lakes

Background/Status: EPA published notice of its proposed permits for vessel discharges, the Vessel General Permit (VGP) and Small Vessel General Permit last November. EPA's new draft permit lays out live-organism limits for ballast water similar to those recommended by the International Maritime Organization in 2004, which industry groups said are achievable with current technology. Environmental groups argue the proposed restrictions are insufficient to thwart the spread of invasive species. Federal courts ordered EPA to set ballast water rules under the Clean Water Act after environmental groups sued. EPA issued an industry-wide permit in 2008 requiring shippers to exchange ballast water at sea or, if the tanks were empty, rinse them with salt water before entering U.S. territory.

The numeric treatment limits for ballast water discharges would not apply to some vessels including large freighters built before 2009 that operate exclusively on the Great Lakes called “lakers.” EPA plans to issue a final permit in November 2012. It would be effective December 2013, although the requirement to install ballast treatment technology would be phased in for different vessel size groups. Shippers, environmentalists and government officials agree a single federal standard is preferable to the existing patchwork of federal and state policies. EPA has no authority to pre-empt state rules, but officials hope many states will follow EPA policy or a similar one under development by the Coast Guard. New York and California have proposed their own ballast rules 100 to 1,000 times stricter than EPA’s proposed permit, but New York officials recently adopted EPA’s national standard.

In an editorial, the *Detroit Free Press* newspaper strongly criticized EPA for adopting an allegedly weak standard. The paper also rapped New York for caving in and following EPA’s lead.

Messages:

- The proposed ballast water standards will require commercial vessels to install technology strong enough to kill at least some of the fish, mussels and microorganisms that live in ballast water and threaten the health of the Great Lakes.

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- If EPA finds in the future that more effective treatment technology is available or more stringent limits are necessary to protect water from invasion, the Agency will tighten the standard.
- Right now, the technology is not available for shippers to kill all living organisms in ballast water.

Contact: From *Associated Press* articles, Sean Ramach, Water Division, 312-886-5284, ramach.sean@epa.gov

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